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January 25, 2024

VIA ECF

Hon. Jesse M. Furman, U.S.D.J.
United States District Court
Southern District of New York
40 Centre Street, Room 2202
New York, NY 10007

**Re: Emery Leon Mitchem, Jr. v. New York University, a New York Corporation, and
Does 1 through 20, inclusive
Case No.: 1:23-cv-07320 (JMF)**

Dear Judge Furman:

We represent Defendant New York University (“Defendant NYU”). Defendant NYU¹ submits this letter in accordance with Rule 3D of Your Honor’s Individual Rules and Practices, prior to the initial pretrial conference scheduled for January 30, 2024.

The attached Proposed Civil Case Management Plan and Scheduling Order sufficiently addresses all issues regarding discovery and other litigation deadlines and an initial pretrial conference is not necessary at this time.

Plaintiff’s Complaint alleges claims of race discrimination and retaliation against Defendant NYU in violation of Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, Title IX of the Education Amendments of 1972, as well as a claim for race discrimination under the New York Equal Pay Act. Plaintiff also asserts claims for breach of contract, unpaid wages in violation of the Fair Labor Standards Act and the New York Labor Law, and intentional and negligent inflictions of emotional distress. Defendant NYU denies any allegations of race discrimination and retaliation and asserts that Plaintiff’s salary was comparable to others in similar positions. Defendant NYU denies any claims for breach of contract and unpaid wages. Defendant NYU moved up Plaintiff’s proposed last day worked because Plaintiff had already moved to California and could no longer perform the essential functions of his job remotely. Plaintiff was paid his wages through his last day worked.

¹ Plaintiff’s counsel was not responsive to Defendant NYU’s emails and phone call requesting review of this letter prior to submission.

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This Court has jurisdiction over this matter because Plaintiff asserts claims under federal law and, during Plaintiff's employment at NYU, he worked at NYU's facilities located in New York, New York.

Defendant NYU proposes that the Parties will serve their responses to the Initial Discovery Protocol by February 25, 2024, which is thirty days after the filing of Defendant NYU's Answer on January 25, 2024.

There are currently no outstanding motions.

At this time, the Parties have not exchanged any discovery but Defendant NYU will provide documents responsive to the Initial Discovery Protocol by February 25, 2024. Defendant NYU anticipates further discovery will be needed to address Plaintiff's allegations against Defendant NYU and Defendant NYU's defenses against these allegations, including but not limited to, electronic discovery and depositions.

To date, Plaintiff has not made a settlement demand to Defendant NYU.

Defendant NYU is open to participating in the District's Mediation Program to facilitate potential early resolution of this matter.

Defendant NYU thanks the Court for its time and consideration of the contents herein.

Respectfully submitted,



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cc: Brian Arbetter, Esq., Counsel for Plaintiff (*via ECF*)

Encl.